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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-9

13 **STEPHANI ANNE WICKS**
14 **aka STEPHANI ANNE PETERSON**
2029 Kathryn Way
Sacramento, California 95821

A C C U S A T I O N

15 **Registered Nurse License No. 339119**
16 **Public Health Nurse Certificate No. 32685**
17 **Nurse Practitioner Certificate No. 9716**
Nurse Practitioner Furnishing Certificate No. 9716

18 Respondent.

19
20 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

21 **PARTIES**

22 1. Complainant brings this Accusation solely in her official capacity as the Executive
23 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

24 **Registered Nurse License**

25 2. On or about December 31, 1981, the Board issued Registered Nurse License Number
26 339119 to Stephani Anne Wicks, also known as Stephani Anne Peterson ("Respondent"). The
27 license was in full force and effect at all times relevant to the charges brought herein and will
28 expire on October 31, 2013, unless renewed.

1 **Public Health Nurse Certificate**

2 3. On or about June 11, 1982, the Board issued Public Health Nurse Certificate Number
3 32685 to Respondent. The certificate was in full force and effect at all times relevant to the
4 charges brought herein and will expire on October 31, 2013, unless renewed.

5 **Nurse Practitioner Certificate**

6 4. On or about March 2, 1998, the Board issued Nurse Practitioner Certificate Number
7 9716 to Respondent. The certificate was in full force and effect at all times relevant to the
8 charges brought herein and will expire on October 31, 2013, unless renewed.

9 **Nurse Practitioner Furnishing Certificate**

10 5. On or about December 8, 1998, the Board issued Nurse Practitioner Furnishing
11 Certificate Number 9716 to Respondent. The certificate was in full force and effect at all times
12 relevant to the charges brought herein and will expire on October 31, 2013, unless renewed.

13 **STATUTORY PROVISIONS**

14 6. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
15 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
16 license, for any reason provided in Article 3 (commencing with Code section 2750) of the
17 Nursing Practice Act.

18 7. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
19 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
20 to render a decision imposing discipline on the license. Under Code section 2811(b), the Board
21 may renew an expired license at any time within eight years after the expiration.

22 8. Code section 2761 states:

23 "The board may take disciplinary action against a certified or licensed nurse or deny an
24 application for a certificate or license for any of the following:

25 (a) Unprofessional conduct, which includes, but is not limited to, the following:

26 (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
27 functions."

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1 9. Code section 2725 states, in pertinent part:

2 (a) In amending this section at the 1973-74 session, the Legislature
3 recognizes that nursing is a dynamic field, the practice of which is continually
4 evolving to include more sophisticated patient care activities. It is the intent of the
5 Legislature in amending this section at the 1973-74 session to provide clear legal
6 authority for functions and procedures that have common acceptance and usage. It is
7 the legislative intent also to recognize the existence of overlapping functions between
8 physicians and registered nurses and to permit additional sharing of functions within
9 organized health care systems that provide for collaboration between physicians and
10 registered nurses. These organized health care systems include, but are not limited to,
11 health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of
12 Division 2 of the Health and Safety Code, clinics, home health agencies, physicians'
13 offices, and public or community health services.

14 (b) The practice of nursing within the meaning of this chapter means those
15 functions, including basic health care, that help people cope with difficulties in daily
16 living that are associated with their actual or potential health or illness problems or
17 the treatment thereof, and that require a substantial amount of scientific knowledge or
18 technical skill, including all of the following:

19 (c) "Standardized procedures," as used in this section, means either of the
20 following:

21 (1) Policies and protocols developed by a health facility licensed pursuant to
22 Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety
23 Code through collaboration among administrators and health professionals including
24 physicians and nurses.

25 (2) Policies and protocols developed through collaboration among
26 administrators and health professionals, including physicians and nurses, by an
27 organized health care system which is not a health facility licensed pursuant to
28 Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety
Code.

The policies and protocols shall be subject to any guidelines for standardized
procedures that the Division of Licensing of the Medical Board of California and the
Board of Registered Nursing may jointly promulgate. If promulgated, the guidelines
shall be administered by the Board of Registered Nursing.

(d) Nothing in this section shall be construed to require approval of
standardized procedures by the Division of Licensing of the Medical Board of
California, or by the Board of Registered Nursing.

10. Code section 2836.1 states:

Neither this chapter nor any other provision of law shall be construed to
prohibit a nurse practitioner from furnishing or ordering drugs or devices when all of
the following apply:

(a) The drugs or devices are furnished or ordered by a nurse practitioner in
accordance with standardized procedures or protocols developed by the nurse
practitioner and the supervising physician and surgeon when the drugs or devices
furnished or ordered are consistent with the practitioner's educational preparation or
for which clinical competency has been established and maintained.

1 (b) The nurse practitioner is functioning pursuant to standardized procedure,
2 as defined by Section 2725, or protocol. The standardized procedure or protocol shall
3 be developed and approved by the supervising physician and surgeon, the nurse
4 practitioner, and the facility administrator or the designee.

5 (c)(1) The standardized procedure or protocol covering the furnishing of
6 drugs or devices shall specify which nurse practitioners may furnish or order drugs or
7 devices, which drugs or devices may be furnished or ordered, under what
8 circumstances, the extent of physician and surgeon supervision, the method of
9 periodic review of the nurse practitioner's competence, including peer review, and
10 review of the provisions of the standardized procedure.

11 (2) In addition to the requirements in paragraph (1), for Schedule II
12 controlled substance protocols, the provision for furnishing Schedule II controlled
13 substances shall address the diagnosis of the illness, injury, or condition for which the
14 Schedule II controlled substance is to be furnished.

15 (d) The furnishing or ordering of drugs or devices by a nurse practitioner
16 occurs under physician and surgeon supervision. Physician and surgeon supervision
17 shall not be construed to require the physical presence of the physician, but does
18 include (1) collaboration on the development of the standardized procedure, (2)
19 approval of the standardized procedure, and (3) availability by telephonic contact at
20 the time of patient examination by the nurse practitioner.

21 (e) For purposes of this section, no physician and surgeon shall supervise
22 more than four nurse practitioners at one time.

23 (f)(1) Drugs or devices furnished or ordered by a nurse practitioner may
24 include Schedule II through Schedule V controlled substances under the California
25 Uniform Controlled Substances Act (Division 10 (commencing with Section 11000)
26 of the Health and Safety Code) and shall be further limited to those drugs agreed
27 upon by the nurse practitioner and physician and surgeon and specified in the
28 standardized procedure.

(2) When Schedule II or III controlled substances, as defined in Sections
11055 and 11056, respectively, of the Health and Safety Code, are furnished or
ordered by a nurse practitioner, the controlled substances shall be furnished or
ordered in accordance with a patient-specific protocol approved by the treating or
supervising physician. A copy of the section of the nurse practitioner's standardized
procedure relating to controlled substances shall be provided, upon request, to any
licensed pharmacist who dispenses drugs or devices, when there is uncertainty about
the nurse practitioner furnishing the order.

(g)(1) The board has certified in accordance with Section 2836.3 that the
nurse practitioner has satisfactorily completed (1) at least six month's physician and
surgeon-supervised experience in the furnishing or ordering of drugs or devices and
(2) a course in pharmacology covering the drugs or devices to be furnished or ordered
under this section.

(2) Nurse practitioners who are certified by the board and hold an active
furnishing number, who are authorized through standardized procedures or protocols
to furnish Schedule II controlled substances, and who are registered with the United
States Drug Enforcement Administration, shall complete, as part of their continuing
education requirements, a course including Schedule II controlled substances based
on the standards developed by the board. The board shall establish the requirements
for satisfactory completion of this subdivision.

1 (h) Use of the term "furnishing" in this section, in health facilities defined in
2 Section 1250 of the Health and Safety Code, shall include (1) the ordering of a drug
or device in accordance with the standardized procedure and (2) transmitting an order
of a supervising physician and surgeon.

3 (i) "Drug order" or "order" for purposes of this section means an order for
4 medication which is dispensed to or for an ultimate user, issued by a nurse
practitioner as an individual practitioner, within the meaning of Section 1306.02 of
5 Title 21 of the Code of Federal Regulations. Notwithstanding any other provision of
law, (1) a drug order issued pursuant to this section shall be treated in the same
6 manner as a prescription of the supervising physician; (2) all references to
"prescription" in this code and the Health and Safety Code shall include drug orders
7 issued by nurse practitioners; and (3) the signature of a nurse practitioner on a drug
order issued in accordance with this section shall be deemed to be the signature of a
prescriber for purposes of this code and the Health and Safety Code.

8 11. Code section 2836.2 states:

9
10 Furnishing or ordering of drugs or devices by nurse practitioners is defined
to mean the act of making a pharmaceutical agent or agents available to the patient in
11 strict accordance with a standardized procedure. All nurse practitioners who are
authorized pursuant to Section 2836.1¹ to furnish or issue drug orders for controlled
12 substances shall register with the United States Drug Enforcement Administration.

13 REGULATORY PROVISIONS

14 12. California Code of Regulations, title 16, section 1442 states:

15 As used in Section 2761 of the code, 'gross negligence' includes an extreme
departure from the standard of care which, under similar circumstances, would have
16 ordinarily been exercised by a competent registered nurse. Such an extreme departure
means the repeated failure to provide nursing care as required or failure to provide
17 care or to exercise ordinary precaution in a single situation which the nurse knew, or
should have known, could have jeopardized the client's health or life.

18 13. California Code of Regulations, title 16, section 1443, states:

19 As used in Section 2761 of the code, 'incompetence' means the lack of
possession of or the failure to exercise that degree of learning, skill, care and
20 experience ordinarily possessed and exercised by a competent registered nurse as
described in Section 1443.5.

21 14. California Code of Regulations, title 16, section 1470 states:

22 The Board of Registered Nursing in conjunction with the Medical Board of
23 California (see the regulations of the Medical Board of California, Article 9.5,
Chapter 13, Title 16 of the California Code of Regulations) intends, by adopting the
24 regulations contained in the article, to jointly promulgate guidelines for the
development of standardized procedures to be used in organized health care systems
25 which are subject to this rule. The purpose of these guidelines is:

26 (a) To protect consumers by providing evidence that the nurse meets all
27 requirements to practice safely.

28 ¹ Code section 2831.1 is not applicable. The intended Code section is 2836.1.

(b) To provide uniformity in development of standardized procedures.

15. California Code of Regulations, title 16, section 1471 states:

For purposes of this article:

(a) "Standardized procedure functions" means those functions specified in [Code] Section 2725(c) and (d) which are to be performed according to 'standardized procedures';

(b) "Organized health care system" means a health facility which is not licensed pursuant to Chapter 2 (commencing with Section 1250), Division 2 of the Health and Safety Code and includes, but is not limited to, clinics, home health agencies, physicians' offices and public or community health services;

(c) "Standardized procedures" means policies and protocols formulated by organized health care systems for the performance of standardized procedure functions.

16. California Code of Regulations, title 16, section 1472 states:

An organized health care system must develop standardized procedures before permitting registered nurses to perform standardized procedure functions. A registered nurse may perform standardized procedure functions only under the conditions specified in a health care system's standardized procedures; and must provide the system with satisfactory evidence that the nurse meets its experience, training, and/or education requirements to perform such functions.

17. California Code of Regulations, title 16, section 1474 states, in pertinent part:

Following are the standardized procedure guidelines jointly promulgated by the Medical Board of California and by the Board of Registered Nursing:

(a) Standardized procedures shall include a written description of the method used in developing and approving them and any revision thereof.

(b) Each standardized procedure shall:

(1) Be in writing, dated and signed by the organized health care system personnel authorized to approve it.

(2) Specify which standardized procedure functions registered nurses may perform and under what circumstances.

(3) State any specific requirements which are to be followed by registered nurses in performing particular standardized procedure functions.

(4) Specify any experience, training, and/or education requirements for performance of standardized procedure functions.

(7) Specify the scope of supervision required for performance of standardized procedure functions, for example, immediate supervision by a physician.

1 (8) Set forth any specialized circumstances under which the registered nurse is to
2 immediately communicate with a patient's physician concerning the patient's condition.

3 **COST RECOVERY**

4 18. Code section 125.3 provides, in pertinent part, that the Board may request the
5 administrative law judge to direct a licensee found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case.

8 **BACKGROUND INFORMATION**

9 19. Between December 2004 and June 2008, Respondent was employed as a Nurse
10 Practitioner/Furnisher at El Hogar Community Services ("El Hogar"), located in Sacramento,
11 California. El Hogar is a facility contracted through Sacramento County that provides
12 medical/psychiatric services to the indigent Sacramento community. Respondent's duties
13 included performing patient examinations and prescribing medications.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Gross Negligence)**

16 20. Respondent is subject to discipline under Code section 2761(a)(1), on the grounds
17 of unprofessional conduct, in that between November 2007 and August 2008, while employed as
18 a Nurse Practitioner/Furnisher at El Hogar, located in Sacramento, California, she was grossly
19 negligent in the following respects:

20 a. Respondent furnished or issued medication orders for controlled substances
21 without being registered with the United States Drug Enforcement Administration ("DEA"), as
22 required by Code section 2836.2.

23 b. Respondent furnished or issued medication orders for controlled substances using
24 the names and DEA numbers of physicians without their knowledge or permission.

25 c. Respondent practiced as a Nurse Practitioner/Furnisher without the required
26 standardized procedures or policies in place, as set forth in Code section 2836.1, and California
27 Code of Regulations, title 16, section 1472.
28

1 d. Respondent misrepresented to pharmacies that verbal and telephone medication
2 orders being transmitted to them were at the request of physicians when, in fact, they were at
3 Respondent's request without the physician's knowledge.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Incompetence)**

6 21. Respondent is subject to discipline under Code section 2761(a)(1), on the grounds
7 of unprofessional conduct, in that between November 2007 and August 2008, while employed as
8 a Nurse Practitioner/Furnisher at El Hogar, located in Sacramento, California, Respondent was
9 incompetent by failing to exercise the degree of learning, skill, care, and experience ordinarily
10 possessed and exercised by a competent nurse, as set forth above in paragraph 20, and in the
11 following respects:

12 a. Respondent dispensed abandoned medications to patients other than for whom the
13 medication was originally prescribed.

14 b. Respondent failed to maintain records/inventory of the abandoned medications
15 dispensed to patients.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct)**

18 22. Respondent is subject to discipline under Code section 2761(a), on the grounds of
19 unprofessional conduct, in that between November 2007 and August 2008, while employed as a
20 nurse practitioner at El Hogar, located in Sacramento, California, Respondent demonstrated
21 unprofessional conduct, as more particularly set forth above in paragraphs 20 and 21.

22 **PRIOR DISCIPLINE**

23 23. Effective November 4, 1983, in a disciplinary action titled, "*In the Matter of the*
24 *Accusation Against: Stephani Anne Peterson, Case No. 83-53,*" the Board adopted a Decision and
25 Order wherein Respondent's Registered Nurse License Number 339119 was revoked. However
26 the revocation was stayed and Respondent was placed on probation for a period of five (5) years
27 under terms and conditions. The Decision and Order was based on numerous Findings of Fact,
28 including the following: 1) Respondent was convicted in 1982 for possession of controlled

1 substances, Pethidine and Demerol; and 2) Respondent falsified, or made grossly incorrect,
2 grossly inconsistent or unintelligible entries in hospital or patient records, in that she failed to
3 account for 650 mg. of Demerol while employed at Mercy Hospital in January 1982.

4 24. Effective January 2, 1987, in a disciplinary action titled, *"In the Matter of the*
5 *Accusation and Petition to Vacate Stay Against: Stephani Anne Peterson, Case No. 86-106,"* by
6 Default Decision and Order, the Board ordered that Respondent's Registered Nurse License
7 Number 339119 be revoked and vacated the stay entered on November 4, 1983, thereby
8 reimposing the Order revoking Respondent's Registered Nurse License Number 339119. The
9 Decision and Order was based on numerous Findings of Fact, including that Respondent obtained
10 the controlled substances Demerol, Tylenol with Codeine, Ativan, and Valium for her own
11 personal use while employed by Larry Saltsman, M.D. in 1985.

12 25. On or about September 15, 1988, Respondent submitted a Petition for
13 Reinstatement to the Board. Effective January 6, 1989, the Board granted Respondent's Petition
14 for Reinstatement, and placed Respondent on probation for three (3) years with terms and
15 conditions.

16 **PRAYER**

17 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein
18 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

19 1. Revoking or suspending Registered Nurse License Number 339119, issued to
20 Stephani Anne Wicks, also known as Stephani Anne Peterson;

21 2. Revoking or suspending Public Health Nurse Certificate Number 32685, issued to
22 Stephani Anne Wicks, also known as Stephani Anne Peterson;

23 3. Revoking or suspending Nurse Practitioner Certificate Number 9716, issued to
24 Stephani Anne Wicks, also known as Stephani Anne Peterson;

25 4. Revoking or suspending Nurse Practitioner Furnishing Certificate Number 9716,
26 issued to Stephani Anne Wicks, also known as Stephani Anne Peterson;

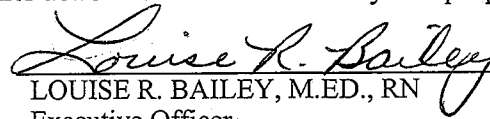
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1 5. Ordering Stephani Anne Wicks, also known as Stephani Anne Peterson to pay the
2 Board of Registered Nursing the reasonable costs of the investigation and enforcement of this
3 case, pursuant to Business and Professions Code section 125.3; and,

4 6. Taking such other and further action as deemed necessary and proper.

5 DATED: July 3, 2012



LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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